Secrt. II.27—40,000—20-12-32.

Rev. (1937) Department.

Ms SERIES.

G.O. No. 2920

Dated 9—11—39.

[Despatch Abstract]

Assessment - Land Revenue - (Sivaraj)

Mulgeni Rates - Payment of dues -

Representation of Sri L Bhamani Bhanke

Rao Papers Received

From

Shri L. Bhavani Shanker Rao,
Landholder, Kadri Road,
M a n g a l o r e,
(South Kanara District)

SECRETARY TO GOVERNMENT
23 AUG 1939
REVENUE DEPARTMENT

MINISTER FOR
23 AUG 1939
GOVERNMENT OF
4301 Ehh

To

The Hon'ble Mr.T.Prakasam,
Minister in charge of Land Revenue,
Govt.of Madras, Madras.

Hon'ble Sir

As the Government of Madras is going to introduce in to the Legislative Council, shortly, a Bill governing the Land Tenures and Revenue in this Presidency, it is desirable that they should be apprised of the different systems of Land Tenure obtaining in this District, so that the necessary provisions may be introduced in to the Bill for enabling the tax paying ryot not only to pay the assessment and other Taxes without running in to debt, but also, to secure an equitable distribution of ever increasing burden of taxes, and to avoid ruinous litigation in Courts, which unscrupulous tenants inflict upon him, on account of their advantageous position, there being no legal obligation upon them in sharing the burden of taxation. Although it is too late, yet, something must be done now at least, by the present Government to lift the ryot from the economic ruin of past years, brought on by previous Governments by their stiff and unsympathetic attitude in tackling these urgent agrarian -- reforms.

2. There are 3 classes of Land tenures in this district, and they are (1) Chalgeni (yearly lease) (2) Vayede Geni (lease for a fixed number of years (3) Mulgeni (permanent lease). The first two kinds

of leases run for fixed periods, and are renewable. They contain clauses to meet all exigencies which altered conditions may bring on. No(3) "Mulgeni" or "Permanent leases" are the most troublesome and cause frequent litigation in Courts. They run on from generations to generations on payment of a small sum fixed, and the rent is unalterable and cannot be enhanced under any circumstances. More than 90% of these leases were entered into long ago as far back as the eighties, when Settlement and enhancement of taxation were not anticipated or dreamt of. Hence, they contained no clauses for making the permanent tenants responsible for the payment of enhanced taxation, which their improvements in the property may bring on. The Mulgeni rents then fixed were absurdly low, when compared with the present day high rentals. At present the Mulgeni tenant gets the full price of land which in Municipalities varies from Rs. 4000/- to Rs.12000/- per acre, whenever he chooses to sell his Mulgeni property, and improvements to others, and whenever Government or a Municipality acquires a Mulgeni property for a public purpose, the Mulgeni tenant is paid the full value of the property at the above rate, while the rights of the unfortunate Landholder or his predecessors who originally purchased this property, and granted the Mulgeni lease to the tenants for the annual payment of a small fixed amount, are restricted only to the collection of this rent and nothing more. The Courts also hold the view that the landholder or Mulgar of a Mulgeni property is entitled only to the collection of the rent, and cannot exercise any of the rights of a proprietor although the Patta is in his name and as such, he pays Government assessment and Municipal taxes and the like.

3. An anomalous position arose in 1900, when Government introduced in to the District, Revenue Settlement, when assessment was raised in the proportion of 1 to 8, in the case of some of Mulgeni holdings in the Municipality, and it was found, that the enhanced assessment was in many cases more than the low Mulgeni rents paid by the tenants. The -- Mulgeni tenants would not pay the enhanced assessment as there were no conditions in the leases making their payment obligatory. Consequently, the landholders or Mulgars had to pay the whole assessment under protest, Although the matter was brought to the notice of the then Government, yet, no action was taken for nearly 20 years. Meanwhile some landholders or Mulgars surrendered their lands to Government or their Mulgeni tenants, who got them without any compensation.

p11-13 of Jom 139 dym Th 12-9(H)

4. However, in 1920, an act called the "Mulgeni enhancement Act" (Act XIII) of 1920, was passed by Government making it obligatory for the Mulgeni Tenant to meet the enhanced assessment, and for the landholder or Mulgar to meet the assessment existing prior to the Settlement of the Dt.in 1900.

5. This is only a partial relief, but there are other taxes especially Municipal taxes in Municipal areas, which a Landholder or Mulgar of a Mulgeni property has to pay, and these taxes are in many cases heavier than Govt. assessment, and as they are enhanced once in every 3 years, the taxes mount up interminably and the Mulgar of Mulgeni properties, finds it impossible to cope with the situation, as the Mulgeni rents are unalterable. Hence the economic ruin of this Class of ryots is worsening day by day as the

Mulgars find it impossible to meet the increasing Municipal taxes. As an instance of the abject condition of this class of ryots, I may point out, that within the Municipal town of Mangalore, there are many Mulgeni holdings which fetch an annual rent of one Rupee only to the Mulgar, who has also to pay more than one Rupee for assessment and for Municipal taxes which are at present paid out of pocket. This is a glaring injustice which Government ought to remove at the earliest opportunity by introducing legislation for transferring Government assessment and Municipal and other taxes to the Mulgeni tenants who enjoy absolute and perpetual possession of the property, and for ensuring the payment of Mulgeni to the Mulgar free from all taxes.

6. Another important matter calling for urgent redress, is, that the Mulgar should be protected from ruinous litigation in Courts, on which he has to embark very often, as Mulgeni tenants lulled into a sense of security by the nature of the lease very often allow the rents to fall into arrears, thus compelling the Mulgar to the resort to Courts for recovery of arrears, which in many cases, go up to 6 years, and, as the Courts also allow them further time to pay the arrears even by instalments, further trouble ensues when the tenant fails to keep up the instalments. From this never -- ending trouble, it is necessary that the Mulgar should be protected from this protracted and ruinous litigation, by introducing legislation for the automatic cancellation of Mulgeni rights, where the tenants have put their rents in arrears for 2 or more years, and that the help of a Civil Court should only be sought for evicting the tenant when he fails to -- surrender the property.

7. In conclusion I beg to add that the transfer of all the taxes (Govt. Municipal etc.) to the permanent Mulgeni tenants is justifiable and equitable on the following grounds:-

(i) That the Mulgeni rents previously fixed were very low and that they do not stand comparison with the prevailing high rates and they cannot be enhanced or altered under any circumstances.

(ii) That the Mulgeni tenants get full value of his property @ Rs.4000/- to Rs.12000/- per acre in Municipal areas whenever a Mulgeni property is acquired by Govt.or a Municipality, while, the Mulgar gets a poor compensation of 20 years rentals, which cannot stand any comparison with the high amounts paid to the Mulgeni tenants and that they also sell their ~~property~~ Mulgeni holdings to any other individual, in which case they get the full market value of the property with the cost of their improvements.

(iii) That they enjoy absolute possession of the property even if they are very irregular in payment of Mulgeni rents and for all practical purposes have all the privileges of a landlord. That they do not pay the taxes which a Mulgar or Landholder is now made to pay in the capacity of a Mulgar.

(iv) That they always harass the Mulgar for payment of their small Mulgeni rents and drive him to Court for the recovery of arrears.

8. Many of the local papers were in the past agitating for the redress of these grievances, but unfortunately nothing was done to remove these hardships. As the present time is opportune to tackle

these agrarian problems, I have thought it best to submit this representation to you, and to request you to make adequate provision in the Bill for removal of the anomalies pointed out and hardships which (~~are~~ am) abuse of this system of Land Tenure brings in its trail

I beg to remain,

Hon'ble Sir,

Your most obedient servant,

Mangalore,
D/-20-7-1939

Jagannavari Shanker Rao.
20-7-1939

Res. Dept.

Assessment. Land Revenue. (South Kanara).
Mulgeni leases. Payment of taxes.
Cyc 4301E/39. Petition from Sri L. Bhavani Shankar Rao, d. 20.7.39.

Hp 1 - 11 Cr.

Orders of Hon. Res: at p 1 Cr.

This may be examined

T. P.
22.8.39.

Tour.

Please see the representation at Hp 1 - 11 Cr and Hon'ble Min's orders as extracted above

2. Mulgeni leases in the South Kanara District are perpetual leases under which a fixed rent is reserved. As long as the rent is paid, the tenant cannot be evicted and even when it is unpaid, the landlord on evicting the tenant is liable for the improvements which the tenant has made. On failure of heirs, the tenants' interest ordinarily lapses to the landlord.

para 1 at p 18 of Jour. 2154 Rev (W) 18.7.1912

3. The position of Mulgeni leases was considered at the time of the Settlement of South Kanara district in 1900-02 - please

see paras 23-25 at pp 32-34, paras 33-35 at pp 146-148 and paras 62-67 at pp 203 to 206 of vol 7 of Ry 25.8.1902. In para 19 at p 223 of that Vol, the Court decided that for settlement purposes, no difference could be made between land on perpetual lease and free land and that the new assessment (which was in many cases more than the rental payable by the landlord under the Municipal leases) ~~must~~ might be effected under the advising process laid down in the Land Recovery Act (II of 1864), leaving the landlord and tenant to settle their respective rights and liabilities by amicable arrangement or in the Civil Courts. It was expected that, by the adoption of this procedure, in cases where the assessment was greater than the rent, the tenant would be obliged to pay the excess. The grounds on which these expectations were based (have subsequently proved fallacious by decisions of Courts which held that under the provisions of Sec. 35 of Act II of 1864, the whole burden of the assessment must fall upon the landlord. Representations were also received by the Court that

(C)

(C)

p 223 of (C)

∝ vide pp 5-10 of Vol 25 Ry (W) + 18.7.1912 + p 5 of 29 Ry (W) 9.X.13 (A

Sec 5(a)

wit pp 2-5 of ex (W)

the position under which the landlord paid an assessment higher than the rental received by him from his tenant was heard and required the remedied. The question as to what remedy was required in the matter was examined at length in G.O. 2154 Revy 18.7.1912 and finally the Govt decided to undertake the necessary legislation in the matter. Legislation was however, delayed the War was in 1914.

p 2 of G.O. 2198 Revy 25.9.15 (D)

After the war, the position was further examined and an Act called the Malgeni Land Enhancement Act, 1920 was enacted (Madras Act XIII of 1920) The Act enabled the landholder of a Malgeni lease (Malgar) to get the rent payable to him under a Malgeni lease enhanced in the manner laid down in it. According to the report on the introduction of the settlement in the South Kanara District, the percentage of the extent of land held under Malgeni leases to the total occupied extent was 9.53 (please see App. K3 at p 302 of G.O. 982 Revy 9.10.05).

(E)

pp 11-13 of G.O. 139 dy 16.1.20 (H)

(I)

4. In his scheme report for the resettlement of South Kanara

district, the Rgl Sch Officer reported that the Mulgeni Rent Enhancement Act XIII of 1920 had removed the grievance of the Mulgar (registered holder) against the Mulgeni tenant regarding the recovery of increased assessment - vide para 63 at pp 44-46 of proc from 1416 Revd 19.7.34. At the settlement the separate pattas which were previously issued for Mulgeni lease holders were Cancelled and all the lands belonging to one and the same Mulgar were included in one patta - vide para 14 at pp 11-12 of proc Register of 19.3.37.

5. The point urged in the representation in the CC is that the Mulgeni Rent Enhancement Act has afforded only partial relief to the Mulgars (landholders under the lease). The requests contained in the representation are:-

(i) that early legislation should be undertaken for transferring for assessment and Municipal and other taxes to the Mulgeni tenants and for crediting the payment of Mulgeni (apparently the rent

(K)

(K)

(N)

paras 4+5 at pp 5-6

p 7 CP

payable under the lease) to the Mulgar free from all taxes; and

(ii) that the legislation should contain provision for the automatic cancellation of Mulgami rights where the tenants have fallen their rents in arrears for two or more years

As regards (i) above, the Mulgar who is the registered holder is at present responsible for the payment of the land assessment. If the rental that he receives is less than the land assessment the Mulgami Rent Enhancement Act, 1970 enables him to get the rental enhanced by making an application in writing to the Collector. The settlement of 1931-34 has not changed this position as sec. 9 of the Act referred to lays down that the enhancement in rent determined under sec. 6 of the Act shall remain in force unless and until the assessment is varied when, on application made by the Mulgar or the Mulgamidar, the Collector may direct such further enhancement or such reduction as may seem equitable having regard to

p 1260 (b)

p 1259 (b)

2 Section 5(b) of p. 1259 of Madras Code, Vol III (Rent 6)

the value and extent of the variation in assessment. The Malgar can claim for the rental payable to him adjusted in accordance with the variation in assessment and he has therefore no grievance in the matter of the fixation of the assessment.

2. As regards the municipal and other taxes, it seems that under section 81.(4)(b) of the Municipalities Act, 1920 [illegible] the landholder in this case, can recover from his tenants in respect of land [illegible] one-half of land cess can be recovered from tenants under sec. 88 of the Act, property tax etc. It might be mentioned here that in connection with the Malgeni Rent Enhancement Bill (which subsequently became the Madras Act XIII of 1920), the Govt. of South Kanara suggested that cesses should be added to the assessment for the purpose of calculating the increase in the assessment over the rental. The Govt. however considered that this was unnecessary as the then Local Boards' Act contained the necessary provision for the recovery of the tenants' share of cesses. See 39

para 9(1) at p 15; from 2575 Rev 9x13 (A)

para 11 (1) at p 19.

I want to share is hardly enough. Where the Malgar gets as rent only the bare assessment it is hard that he should have to pay even half the

L.A. Dept might be consulted as to what the Thomtenants position now is in regard to the recovery of taxes etc paid to local bodies by the Thulgans.

7 As regards item (ii) as per para the usual method for landlords to recover arrears of rent etc from tenants is by filing suits and there seems to be no reason to take the drastic steps of extinguishing the tenancy in regard to Thulgan leases for default in the payment of rents ~~for one or two years~~.

8 The file might be sent to L.A.D. for remarks with ref to para below

1939

2-9-39. The grievance is in regard to Municipal taxes in particular - vide p 5 C.f.

S.

K.A.

L.A.

L.A. Deptt

The grievance about Mun... taxes will be found in para 5 of the petition in C.f. The position stated above page 6 ante is correct.

Thos GB
4/9.

Revenue 4307/38-1
2 8.9.39.

ASST. SECY. TO GOVT.
9 SEP 1939
LOCAL ADM. DEPT.
9/9

half the taxes payable to a local body is recoverable from the tenants.

It is open to a Municipal council however to exempt under S. 117 of the M.D.M Act, 1920, the Mulgans from the tax payable by them under S. 81(4)(b) of the Act. An extract of para 5 of the petition may be sent to the Mangalore & Udupi Mlas. The only two Municipal councils in South Kanara Dt. and they may be advised to consider the question of exempting the owners of lands held under Mulgani lease. Similarly under S. 111 of the M.L.B Act, the S. Kanara Dt. Bd may exempt the Mulgans from their share of the land cess. It may be advised. consider the matter.

It seems unnecessary to consider the question of amending the two Acts, unless the three local bodies represent to decline to grant the exemptions suggested above.

With these remarks, this may be returned to the Revenue Deptt

Action may be taken as suggested in para 2 above. Extracts will be taken for further action

24/10 Rep to Rev 31/10 Rep 30/10 31/10

L.A.U.O.No. 30 113 1/8 31-10-39

ASSISTANT SECRETARY
5266
1 NOV 1939
REVENUE DEPARTMENT

Rev. Dept.

To U.S.

pp 1-11 c/f

This file deals with the representations of Sri. L. Bhavani Shanker Rao of Mangalore regarding the grievances of Mulgars (ie. the owners of lands held on Mulgeni tenure) in the South Kanara district in the matter of payment of the land revenue assessment and the municipal and other taxes on such lands. The notes at pp 1-8 ante may be perused. It has been considered that, so far as the payment of the assessment is concerned, the Mulgeni Rent Enhancement Act, 1920 affords adequate relief to the Mulgar and he has therefore no grievance in this regard and that there is no reason to undertake legislation as suggested by Sri. Shanker Rao to extinguish Mulgeni tenancy in cases where there is default in the payment of rent by the tenants. As regards the municipal and other taxes the L.A. Dept. has agreed with this dept. that the Mulgar can, under law, recover one half of the ~~two~~ property tax and land cess from the tenant. As for the other half of these taxes which is payable by the Mulgars (pl see Govt's note at p 6 supra) the L.A. Dept. propose to ask the Mangalore and Udipi Municipal Councils and the South Kanara Dt. Board to consider the question of exempting the Mulgar from the payment of their share of the taxes and have taken the necessary extracts for separate

pp 5-6 ante

Sees 5 to 7 at p 125 of Mad. C. . Vol III (Rev. No. 6).

para 7 at p 7 ante
& vide item (ii) at p 5 ante

Vide para 6 at p 6 ante
& pp 7-8 ante

p 8 ante

action...

2. Sri. Shankar Rao submitted this representation in the c.f. in order that necessary provision might be made in the Land Revenue Bill which it was proposed to introduce in the Assembly, for giving relief to the Mulgars in the South Kanara district. Shankar Rao He does not seem to expect any reply and ~~no communication~~ it does not seem necessary to send any Communication to him now. The papers may be filed as No. Ms. 2970 Rev. dated 9-11-39 'Recorded'

vide fl. 1 & 11 c.f.

The Bill which the previous Govt finally proposed to introduce did not seek to define land tenures etc HM agreed to leave such matters for a future occasion

GA
3.11.39.
6.11.39

Assessment - Land Revenue - (S. Kanara) - Mulgeni leases - Payment of fasals - Representation of Sri. L. Bhavani Shankar Rao - Papers recorded.

No further action

Closed

Government of Madras.

Received.....1939. Registered.....1939.

Abstract

TAX - Land held under mulgeni tenure-South Ka...district-Exemption Advised.

Local Administration Department.

G.O.No.MS.4818 dated 8th December 1939.

Read-

From Sri L.Bhavani Shanker Rao,Mangalore,dated 20th July 1939.

ORDER :-

An extract from the petition read above is communicated to the Commissioners of the Mangalore and Udipi municipalities and to the President,District Board,South Kanara. The Mangalore and Udipi municipal councils and the South Kanara District Board are requested to consider the question of exempting the owners of lands held under Mulgeni tenure in their respected areas from property tax under section 117 of the Madras District Municipalities Act,1920 or from land tax under section 113 of the Madras Local Boards Act,1920 as the case may be.

(By order of His Excellency the Governor)

L.J.MacIver

Secretary to Government.

To the Commissioners of the Mangalore and Udipi Municipalities through Chairmen.
To the President,District Board, South Kanara.
To the Revenue Department.
To the Collector of South Kanara.

(True Copy)

Forwarded

(By order)

Superintendent.